



House of Representatives

General Assembly

File No. 213

January Session, 2003

House Bill No. 5812

House of Representatives, April 8, 2003

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING CONSUMER FINANCIAL INFORMATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-371 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) As used in this section:

4 (1) "Retailer" means any person who sells goods used primarily for
5 personal, family or household purposes to a person who is not in the
6 business of reselling such goods;

7 [(2) "Discount card or device" means any card or device issued by a
8 retailer to a consumer, that the consumer may use to obtain a discount
9 when making purchases from the retailer, including, but not limited
10 to, a scanner card;]

11 [(3)] (2) "Consumer" means an individual who is an actual or
12 prospective purchaser of goods used primarily for personal, family or

13 household purposes; and

14 [(4)] (3) "Consumer information" means information that identifies a
15 consumer and that is obtained by a retailer. [from the consumer's use
16 of a discount card or device issued by the retailer in the course of the
17 retailer's business.]

18 (b) No retailer [who issues, or has issued, a discount card or device
19 in this state to a consumer] may sell, lease or relinquish to or exchange
20 with any other person, firm or corporation any consumer information,
21 unless (1) the retailer provides reasonable prior written notice to the
22 consumer, (2) the retailer provides the consumer with the option [, at
23 the time the consumer applies for the discount card or device or at the
24 time the consumer receives an unsolicited discount card or device,] of
25 preventing the retailer from selling, leasing, [or] relinquishing or
26 exchanging such information, and (3) the consumer does not exercise
27 such option to prevent the retailer from selling, leasing, [or]
28 relinquishing or exchanging such information.

29 (c) Such notice shall (1) state that information identifying the
30 consumer may be sold, leased or relinquished to or exchanged with
31 other persons, firms or corporations, (2) describe the purposes for
32 which such information would be used, and (3) include a form the
33 consumer may use to prevent the retailer from selling, leasing, [or]
34 relinquishing or exchanging such information.

35 (d) Nothing in this section shall be construed to supersede the
36 federal Fair Credit Reporting Act (15 USC 1681 et seq.).

37 (e) The provisions of this section do not apply to the [sale, lease or
38 relinquishing] selling, leasing, relinquishing or exchanging of
39 consumer information by a retailer to another person, firm or
40 corporation that directly or through one or more intermediaries,
41 controls, or is controlled by, or is under common control with, such
42 retailer.

43 (f) Notwithstanding the provisions of subsection (b) of this section, a

44 retailer may relinquish consumer information to (1) a credit rating
45 agency, as defined in section 36a-695, or a consumer reporting agency,
46 as defined in 15 USC 1681 et seq., provided such information may be
47 relinquished only if the discount card or device also functions as a
48 credit card, as defined in section 53a-128a, (2) a person, firm or
49 corporation performing or providing services used for the delivery of
50 such retailer's promotional offers, or (3) a person, firm or corporation
51 performing or providing services used for the delivery of such
52 retailer's billing statements.

53 (g) Any violation of any provision of this section shall be deemed an
54 unfair or deceptive trade practice under subsection (a) of section 42-
55 110b.

56 (h) The provisions of this section shall not apply to the provision of
57 consumer information by a retailer (1) to a financial institution, as
58 defined in the Gramm-Leach-Bliley Financial Modernization Act of
59 1999 (15 USC 6801 et seq.), if such information is subject to the
60 provisions of said act, or (2) to any entity if such information is used by
61 such entity only for administering a program on behalf of the retailer.

This act shall take effect as follows:	
Section 1	October 1, 2003

GL *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Consumer Protection, Dept.	GF - None	None	None
Attorney General	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill would prevent retailers from disseminating identifying information without first giving the consumer an opportunity to prevent such disclosure. Violations of the notice and disclosure provisions are deemed to be an unfair and deceptive trade practice.

Any impact on the Department of Consumer Protection resulting from the passage of this bill would be minimal and can be handled by staff without the need for additional budgetary resources. Likewise, the Attorney General's office can handle any caseload increase without the need for an additional appropriation. The potential revenue gain from civil penalties imposed by a court would be deposited in the General Fund.

OLR Bill Analysis

HB 5812

AN ACT CONCERNING CONSUMER FINANCIAL INFORMATION**SUMMARY:**

This bill expands the situations in which a retailer must give a consumer an opportunity to prevent disclosure of identifying information, but also adds exceptions.

Current law, with exceptions, prohibits retailers who issue discount cards or devices from selling, leasing, or relinquishing consumer information they obtain from the card or device without giving the consumer notice and an opportunity to object to stop the disclosure. This bill applies these rules to (1) any retailer, not just those issuing cards; (2) any information obtained by a retailer, not just information from discount cards or devices; and (3) the exchange of information, as well as selling, leasing, or relinquishing it.

The bill also adds exceptions to the notice requirements. The bill permits disclosure of consumer information to (1) banks, security brokerage firms, and insurance companies affiliated with federally authorized holding companies, as required by the 1999 federal Gramm-Leach-Bliley Financial Modernization Act, if the information may be disclosed under it (15 USC 6809 (3)(A)) and (2) any entity that uses the information only to administer a program for the retailer. As under current law, disclosure is allowed to (1) a credit reporting agency or consumer reporting agency if the discount card or device is also a credit card and (2) a person, firm, or corporation for purposes of delivering the retailer's promotional offers or billing statements.

As under current law, violations of the notice and disclosure provisions are unfair or deceptive trade practices.

EFFECTIVE DATE: October 1, 2003

BACKGROUND***The Federal Gramm-Leach-Bliley Act***

The Gramm-Leach-Bliley Act (P. L. 106-102) eliminates long-standing barriers to cross-ownership and affiliation among banks, security brokerage firms, and insurance companies. Title V of the act contains privacy protections for consumers when companies share consumer information. It requires banks to develop written privacy policies, disclose them to consumers, and give consumers the right to opt out of information sharing with nonaffiliated third parties.

The act does not let consumers opt out of sharing information among affiliated companies. It prohibits disclosure of customer accounts or similar access codes to nonaffiliated third-parties for telemarketing or other direct marketing purposes. It requires federal regulators to establish comprehensive standards for ensuring the security and confidentiality of consumers' personal financial information.

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report

Yea 11 Nay 6